

REMARKS

The present Amendment is in response to the Office Action mailed September 6, 2006, in the above-identified application.

As an initial matter, Applicants acknowledge and appreciate the Examiner's indication that claims 7 and 14 contain allowable matter. Specifically, the Examiner objected to claims 7 and 14 as being dependent upon a rejected base claim, but indicated that the claims would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

In the present Amendment, Applicants have amended claims 1, 8, and 15 and have canceled claims 7 and 14. Claim 1 has been amended to incorporate the limitations of claim 7 therein, and claim 8 has been amended to incorporate the limitations of claim 14 therein. Applicants have also added new claims 21 and 22 that depend from claim 15. The limitations found in new claims 21 and 22 are fully supported by the originally filed specification and add no new matter.

In the Office Action, the Examiner rejected claims 1-3, 5-6, 8-10 and 12-13 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,001,433 to Songer et al. Referring to FIGS. 6A-6C thereof, Songer discloses an intervertebral implant including a first baseplate 82 having an aperture 88 extending therethrough and a second baseplate 84 having an aperture 90 extending therethrough. A spherical ball 92 is positioned between the two baseplates 82, 84 and meshes with the apertures 88, 90 in the respective baseplates.

In response to the Examiner's rejection of the claims under Songer, Applicants have amended independent claim 1 to incorporate the limitations of claim 7 therein and have amended independent claim 8 to incorporate the limitations of claim 14 therein. In view of the above-noted amendments, Applicants

respectfully assert that claims 1 and 8 are now unanticipated by Songer and are otherwise allowable. Claims 2-6 and 9-13 are unanticipated, *inter alia*, by virtue of their dependence from claims 1 and 8, respectively.

The Examiner also rejected claims 1-5, 8-12 and 15-19 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. U.S. 2005/0021146 to De Villiers et al. Referring to FIG. 1 thereof, De Villiers discloses an intervertebral prosthetic disc including a first baseplate 12 and a second baseplate 14 with a core 16 disposed between the baseplates. The core 16 includes a passage 32 that extends axially therethrough. The passage 32 is provided with an internally threaded sleeve 33 and a threaded rod 34 is threadably engaged with the threaded sleeve 33. The length of the rod 34 is greater than the axial dimension of the core 16 so that the opposite ends 36 of the rod project from the curved surfaces 28 and 30 of the core. The ends 36 of the threaded rod 34 are located in recesses 26 formed in the inner surfaces of the first and second plates 12, 14. The Examiner considers the recesses 26 to be similar to the claimed apertures in the first and second baseplates. The Examiner also considers the opposed ends of the threaded rod 34 to be similar to the claimed retaining caps.

In response to the rejection under De Villiers, Applicants respectfully assert that independent claims 1 and 8 are unanticipated for the reasons set forth above. Claims 3-5 and 9-12 are anticipated, *inter alia*, by virtue of their dependence from claims 1 and 8, respectively.

Independent claim 15 has been amended as indicated above. Claim 15 is unanticipated by De Villiers because the cited reference neither discloses nor suggests an artificial intervertebral disc "wherein rotation of said first baseplate to at least one angular position relative to said bearing mechanism

extends said bearing mechanism through said first baseplate aperture." Claims 16-19 are unanticipated, *inter alia*, by virtue of their dependence from claim 15.

The Examiner also rejected claims 6, 13 and 20 under 35 U.S.C. § 103(a) as being unpatentable over De Villiers in view of U.S. Patent No. 5,514,180 to Heggeness et al. In response, Applicants respectfully assert that Heggeness does not overcome the deficiencies noted above in De Villiers.

As it is believed that all of the rejections set forth in the Office Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that she telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which she might have.

If there are any additional charges in connection with this requested Amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: December 5, 2006

Respectfully submitted,

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